

**CITY OF MILPITAS
Summary of Contents
Milpitas City Council Meeting
February 17, 2004
6:00 p.m. Closed Session
7:00 p.m. Public Business
455 E. Calaveras Boulevard**

I. ROLL CALL (6:00 p.m.)

II. ADJOURN TO CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

(Pursuant to Government Code Section 54956.9[a])

Title: Milpitas v. Turner Construction et al.

Santa Clara County Superior Court Case No. CV008400

2. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

(Pursuant to Government Code Section 54956.9[a])

Title: Milpitas v. Sobek

Santa Clara County Superior Court Case No. CV816141

3. CONFERENCE WITH REAL PROPERTY NEGOTIATOR

(Pursuant to Government Code Section 54956.8)

Property: APN Nos. 86-12-015, 86-12-016, and 86-12-020. 112 N. Main Street

Negotiating Party: Milpitas Redevelopment Agency

Under Negotiation: Terms and Conditions for Acquisition of Property

4. CONFERENCE WITH REAL PROPERTY NEGOTIATOR

(Pursuant to Government Code Section 54956.8)

Property: APN Nos. 28-24-015, 28-24-014, 28-24-020, and 28-24-026. 130, 110, and 94 Winsor

Negotiating Party: Milpitas Redevelopment Agency

Under Negotiation: Terms and Conditions for Acquisition of Property

III. CLOSED SESSION ANNOUNCEMENTS: Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote on abstention of each member present

IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)

V. APPROVAL OF MINUTES: February 3, 2004

VI. SCHEDULE OF MEETINGS

VII. PRESENTATIONS

Proclamation:

Lechi Nguyen, Gene Schwab Memorial "Service Above Self" Award

VIII. CITIZENS FORUM

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to under two minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

- IX. ANNOUNCEMENTS**
- X. APPROVAL OF AGENDA**
- XI. CONSENT CALENDAR (Items with Asterisks)**
- XII. PUBLIC HEARING (None)**
- XIII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**
- RA1. CALL TO ORDER BY THE MAYOR**
- RA2. ROLL CALL**
- RA3. APPROVAL OF MINUTES: February 3, 2004**
- RA4. APPROVAL OF AGENDA AND CONSENT CALENDAR (ITEMS WITH ASTERISKS)**
- RA5. Review and Approve Library Building Program and Cost Plan: Library (Project No. 3394) (Staff Contact: Greg Armendariz, 586-3220)**
- *RA6. Resolution Granting Initial Acceptance: Milpitas City Hall (Project No. 8026) (Staff Contact: Greg Armendariz, 586-3220)**
- *RA7. Approve a Consultant Services Agreement with Swinerton Management & Consulting, and a Public Improvement Design Cost Agreement with KB Homes, (Various Projects) (Staff Contact: Greg Armendariz, 586-3220 and James Lindsay, 586-3274)**
- RA8. AGENCY ADJOURNMENT**
- XIV. REPORTS OF OFFICERS AND BOARDS**
- City Council**
- *1. Approve Appointment to the Parks, Recreation, and Cultural Resources Commission: Commission: Mayor Esteves**
- 2. Discuss Proposal to Establish a City of Milpitas Newsletter: Vice Mayor Dixon**
- Sister Cities Commission**
- *3. Request for Renewed Sister City Relationship and Approval of Memorandum of Understanding: Tsukuba City, Japan (Staff Contact: Leslie Stobbe, 586-3352)**
- XV. UNFINISHED BUSINESS**
- 4. Status Report on Cable TV Franchise Renewal and Compliance Issues (Staff Contact: Blair King, 586-3060)**
- 5. Odor Control Comprehensive Action Plan Update (Staff Contact: Darryl Wong, 586-3345)**
- XVI. NEW BUSINESS**
- *6. Approve One Organizational Youth Sports Assistance Fund Grant Request (Staff Contact: Kerrilyn Ely, 586-3231)**

- *7. Deny Marquee Request: Felipe and Vitalina Cardenas (Staff Contact: Jennifer Tagalog, 586-3206)**

XVII. ORDINANCE

- 8. Introduce Ordinance No. 261, Adding a New Chapter 18 to Title V of the Milpitas Municipal Code to Authorize Enforcement of Posted Use Regulations at Designated Public Sites and Facilities (Staff Contact: Steve Mattas, 586-3040)**

XVIII. RESOLUTION

- *9. Adopt Resolution Accepting Grant Award, Approve Budget Appropriation, Reject Bid Protest and Award Construction Contract: Berryessa Creek Trail, Reach 3 (Project No. 5074) (Staff Contact: Greg Armendariz, 586-3220)**

XIX. BIDS AND CONTRACTS

- *10. Approve Agreement Amendment: BKF Engineers, 237/I-880 Interchange (Project No. 4170); Dixon/I-880 Interchange (Project No. 4047); Tasman/I-880 Right-of-Way (Project No. 4039) (Staff Contact: Doug Devries 586-3313)**
- *11. Authorize the Purchase of Mobile Computing Equipment for the Fire Department. (Staff Contact: Bill Marion, 586-2701)**
- *12. Authorize Purchase of Replacement Public Safety Base Station Radio Equipment (Staff Contact: Lou Zenzen, 586-3161)**
- *13. Award Bid for Purchase of Eight File Servers (Project No. 8109) (Staff Contact: Lou Zenzen, 586-3161)**
- *14. Award Construction Contract: Piedmont Road Bike Lane and Sidewalk Improvements at St. John's Cemetery (Project No. 4214) (Staff Contact: Steve Erickson 586-3317)**

XX. CLAIMS AND DEMANDS

- *15. Approve Payment Requests: Miscellaneous Vendors / Contractors (Staff Contact: Lou Zenzen, 586-3161)**

XXI. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, MARCH 2, 2004, AT 7:00 P.M.**

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Milpitas City Council Meeting
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6:00 p.m. Closed Session
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XII. PUBLIC HEARING (None)

XIII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. CALL TO ORDER BY THE MAYOR

RA2. ROLL CALL

RA3. APPROVAL OF MINUTES: February 3, 2004

RA4. APPROVAL OF AGENDA AND CONSENT CALENDAR (ITEMS WITH ASTERISKS)

RA5. Review and Approve Library Building Program and Cost Plan: Library (Project No. 3394) (Staff Contact: Greg Armendariz, 586-3220)

BACKGROUND: The Library Subcommittee and staff have been working with the City's Library Consultant, Ripley Architects to develop a Library Building Program based on the Council approved Library Needs Assessment Study. A draft Building program and cost plan have been prepared and is included in the Council's packet. At the Council meeting, staff will provide a presentation on the library subcommittee's recommended building program and cost plan.

RECOMMENDATION: Review and approve the draft Library Building Program and Cost Plan.

***RA6. RESOLUTION GRANTING INITIAL ACCEPTANCE: MILPITAS CITY HALL (PROJECT NO. 8026) (STAFF CONTACT: GREG ARMENDARIZ, 586-3220)**

BACKGROUND: The project to provide interior furniture for the Milpitas City Hall was awarded to One Work Place on November 9, 2001. The City's contractor has completed the project. Therefore, an initial acceptance may be granted and the contractor's faithful performance bond may be reduced to \$42,795.90, which is 10% of the contract amount.

RECOMMENDATION: Adopt resolution granting initial acceptance subject to a one-year warranty period and reducing the faithful performance bond to \$42,795.90.

***RA7. APPROVE A CONSULTANT SERVICES AGREEMENT WITH SWINERTON MANAGEMENT & CONSULTING, AND A PUBLIC IMPROVEMENT DESIGN COST AGREEMENT WITH KB HOMES, (VARIOUS PROJECTS) (STAFF CONTACT: GREG ARMENDARIZ, 586-3220 AND JAMES LINDSAY, 586-3274)**

BACKGROUND: The City recently entered into three party agreements with the County of Santa Clara and KB Homes for the development of the County owned parcels surrounding the Elmwood facility and adjoining Abel Street. The new development will include the construction of new roadways, approximately 823 new residential units, and a new City park. KB Homes will be required to design and construct roadway and streetscape improvements on both sides of Abel Street between Corning Avenue and Great Mall Parkway. These improvements would be consistent with the Midtown Specific Plan streetscape standards.

The current five-year Capital Improvement Program (CIP) also includes several projects on Abel street (between Main Street and Calaveras Boulevard) including, installation of a free right turn onto Calaveras Blvd, the partial closure of Carlo Street, and the installation of dual left turns on Calaveras at Abel. In addition, it is proposed that Abel Street be improved beyond the boundaries of KB Home's responsibility consistent with the Midtown Plan.

In order to ensure the coordinated completion of these improvements with the KB development, a Public Improvement Design Cost Agreement has been drafted between the City and KB Homes. The City would engage the services of a project management consultant as needed to manage, coordinate, and oversee the design and construction of the various Abel Street improvement projects. Staff has interviewed several professional consultants and recommends that Swinerton Management & Consulting (SMC) provide these services. The proposed Swinerton project management team has recent experience in providing these services on a much larger and more complicated development in San Mateo.

SMC would provide professional project management services as needed in order to bring these projects to completion. Specific tasks that SMC will provide include project scope development, design coordination, plan and specification review, value engineering, monitoring project budget, bidding assistance, construction management, and construction administration. These services will be provided on a time and materials basis with a not-to-exceed maximum amount of \$469,000, which is considered reasonable for the level of service involved. There are sufficient funds in the respective CIP project budgets, RDA Bond Proceeds and cost sharing from KB Homes, for this cost.

KB Homes has agreed to pay \$120,000 for project management services provided by SMC related to Abel Street, and \$275,000 for the preparation of actual construction plans and specifications. The selection process for a design consultant is underway and will be presented to Council for approval at a later date. The City/Agency has agreed to authorize a withdrawal from the Elmwood Infrastructure Escrow Account to cover KB's cost relative to the above expenditures. In its negotiations with the County of Santa Clara to acquire the surplus Elmwood property, the Redevelopment Agency agreed to provide \$20 million to fund the Elmwood Infrastructure Account to support the development of the KB project.

A Capital Improvement Project for Abel improvements does not currently exist, in order to expedite this project a mid-year CIP will be presented to the Council for subsequent action.

RECOMMENDATION:

1. Authorize the City Manager to enter into the agreement with Swinerton Management in the amount not to exceed amount of \$469,000 subject to approval as to form by the City Attorney.
2. Authorize the City Manager to enter into an agreement with KB Homes to finance the management and design of the streetscape Improvements for Abel Street between Corning and Great Mall Parkway.

RA8. AGENCY ADJOURNMENT

XIV. REPORTS OF OFFICERS AND BOARDS

City Council

- *1. APPROVE APPOINTMENT TO THE PARKS, RECREATION, AND CULTURAL RESOURCES COMMISSION: COMMISSION: MAYOR ESTEVES**

BACKGROUND: Mayor Esteves is recommending the following changes and appointment to the Parks, Recreation, and Cultural Resources Commission: Moving Henry Ku from Alternate

No. 1 to fill the vacancy created by the resignation of Zeya Mohsin, for a term expiring June 2006; moving Judi Leonard From Alternate No. 2 to Alternate No. 1, with a term expiring June 2005; and appointing Kathryn Gray to the Alternate No. 2 position with a term expiring June 2004. A copy of Ms. Gray's application is included in the Council's agenda packets.

RECOMMENDATION: Approve the Mayor's appointment to the Parks, Recreation, and Cultural Resources Commission.

2. DISCUSS PROPOSAL TO ESTABLISH A CITY OF MILPITAS NEWSLETTER: VICE MAYOR DIXON

BACKGROUND: Vice Mayor Dixon requests discussion of a proposal to establish a City newsletter for distribution to Milpitas residents. The proposal asks for the Council's commitment to publishing four quarterly issues over a one-year period. The newsletter would be printed in-house with contractual services for layout and writing.

Estimated costs per edition of 20,000 copies are:

• Printing:	4 color	\$1,500
	2 color	\$1,350
• Layout/Writing:	8 pages	\$950
	12 pages	\$1,450
• Mailing:	Bulk rate through mailing house if presorted	\$2,250
• Total per edition:	8 pages, 4 color	\$4,700
	12 pages, 4 color	\$5,200
• Total for one year/4 editions:	8 pages, 4 color	\$18,800
	12 pages, 4 color	\$20,800

Proposed cost allocation: 1/2 General Fund and 1/2 Redevelopment Agency funds. The City may want to consider cost sharing with the school district for this project.

RECOMMENDATION: Discuss and direct staff as appropriate.

Sister Cities Commission

***3. REQUEST FOR RENEWED SISTER CITY RELATIONSHIP AND APPROVAL OF MEMORANDUM OF UNDERSTANDING: TSUKUBA CITY, JAPAN (STAFF CONTACT: LESLIE STOBBE, 586-3352)**

BACKGROUND: The Milpitas Sister Cities Commission conducted a special meeting on October 1, 2003, with Tsukuba City representatives to update its Memorandum of Understanding (MOU) with the City of Milpitas. Tsukuba City incorporated the Town of Kukizaki on November 1, 2002, and honored the existing MOU through August 2003. Tsukuba City is located approximately 60 miles northeast of Tokyo in the southwestern Ibaraki Prefecture. It has a resident population of 165,000. During its review of a sister cities relationship between the City of Milpitas and Tsukuba City, the Commission reviewed the past seven years of Milpitas' successful relationship with the Town of Kukizaki and explored the nature of a mutually beneficial relationship with Tsukuba City.

The Commission agreed with the Tsukuba International Relations Committee to reduce the number of students and adult travelers for cultural exchanges and has refined the agreement to

include coverage of airport transportation costs and food provisions at one event in each city. The Commission would request approval of any expenses and an appropriation from the Council's community promotions budget, estimated at \$2,600, prior to a visit from the Tsukuba delegation.

The MOU continues its tradition of one annual cultural exchange to each city. At its October 1, 2003, meeting, the Milpitas Sister Cities Commission unanimously approved recommending renewing this relationship with Tsukuba City through December 2008. The final draft MOU was approved for recommendation to the City Council at the Commission's January 22, 2004, meeting. Included in the Council's agenda packet is a copy of the MOU.

RECOMMENDATION: Approve the Sister Cities Commission's recommendation to enter into a four-year sister city relationship with Tsukuba City, Japan, and authorize the Mayor to sign the MOU.

XV. UNFINISHED BUSINESS

4. STATUS REPORT ON CABLE TV FRANCHISE RENEWAL AND COMPLIANCE ISSUES (STAFF CONTACT: BLAIR KING, 586-3060)

BACKGROUND: In January of 2003, the Council authorized the commencement of cable franchise renewal negotiations. Since Council's authorization, a technical review of the Milpitas cable system has been completed, a cable subscriber telephone survey conducted, a franchise fee desk audit completed, and a draft needs assessment produced. From these documents, a franchise agreement was drafted and forwarded to Comcast on October 27, 2003.

Cable franchise renewal negotiations are taking longer than originally anticipated. In order to accommodate franchise negotiations the franchise agreement has been extended from April 2003 to April 2004, a year beyond the initial franchise period.

Comcast was requested to respond to the draft franchise agreement by November 14, 2003. Comcast was also requested to respond to a report concerning franchise fee payments and a report identifying physical plant deficiencies.

Subsequent to Comcast receiving these documents, it has met once on November 24, 2003 with city staff. Scheduling difficulties have prevented subsequent meetings and little progress has been made in resolving current franchise compliance issues or addressing the negotiation of a successor franchise agreement. It had been hoped that current franchise issues could be addressed in the context of franchise renewal negotiations. However, considering the delay in franchise negotiation, it is believed that issues of current non compliance should be dealt with independently of the franchise negotiations. A presentation will identify open compliance issues and include recommended actions for resolution. A copy of the staff report and the agenda request summary has been forwarded to Eddie Garcia of Comcast.

RECOMMENDATION:

1. Note receipt and file staff report.
2. Direct staff to prepare a resolution for subsequent Council consideration to find Comcast in violation of the current franchise agreement.

5. ODOR CONTROL COMPREHENSIVE ACTION PLAN UPDATE (STAFF CONTACT: DARRYL WONG, 586-3345)

BACKGROUND: This is an update of the odor control coordination activities. Some of the key events that have occurred during the past month include:

1. Received minor comments from the regulatory agencies to the Odor Control Comprehensive Action Plan.
2. Began preparation of a complaint guideline door hanger for distribution to residents in northwest and Sunnyhills portions of the City in late February.
3. Bay Area Air Quality Management District (BAAQMD) began coordinating Memorandums of Understandings with possible odor generators as part of the Rapid Notification System.
4. Coordinated with the LEA and BFI to accelerate implementation of best management practices to include complete relocation of compost processing facilities to a paved area.
5. Reviewed professional odor control advisory services proposals. Staff has begun contract negotiations and anticipates submitting a consultant contract for Council approval in March.

The Bay Area Air Quality Management District (BAAQMD) has reported the following number of complaints logged in October: 96, November: 50, December: 16, January: 31.

RECOMMENDATION: Note receipt and file progress report.

XVI. NEW BUSINESS

***6. APPROVE ONE ORGANIZATIONAL YOUTH SPORTS ASSISTANCE FUND GRANT REQUEST (STAFF CONTACT: KERRILYN ELY, 586-3231)**

BACKGROUND: On June 17, 2003, the Milpitas City Council approved and appropriated \$10,000 for the Youth Sports Assistance Fund for the 2003-2004-budget year. Included in the Council agenda packet for review and consideration is one (1) Group Youth Sports Assistance Fund application.

Youth Sports Assistance Fund Application was received from Southpawprep, requesting \$1,131.50 to offset costs of the purchase of speed training jump ropes, super shoot rack, quick feet reaction balls, sports game plan software, medical kit (2), and scouting/coaching clipboards.

This applicant meets the eligibility for the grant process. Staff has reviewed the items requested and found that some requested items do not meet the application guidelines, under the section, "Funding consideration will be given", page 2, and item #3 states; "To one time activities or capital equipment purchases designed to address a significant need or problem which the organization cannot routinely finance."

Items requested that do not meet grant guideline criteria:

Scouting clipboards 4 @ \$22.00ea =	\$88.00
Speed training jump ropes 12@\$15.00 ea =	\$180.00
Quick feet reaction balls 7 @ \$8.50.ea =	<u>\$59.50</u>
Subtotal	<u>\$327.50</u>

Items that meet the grant guideline criteria:

Super Shoot Rack	\$350.00
Gameplan Software	\$130.00
Medical Kits 2@ 125.00	<u>\$250.00</u>
Subtotal	<u>\$730.00</u>

The Parks, Recreation and Cultural Resources Commission reviewed the Southpawprep application on February 2, 2003, and recommended approval of the staff recommended Organizational Youth Grant amount of \$730.00.

There is currently a balance of \$2,050.00 in the 2003-2004 Youth Sports Assistance Fund.

RECOMMENDATION: Approve one Organizational Youth Sports Assistance grant in the amount of \$730.00 as recommended by the Parks, Recreation and Cultural Resources Commission, leaving a balance of \$1,320.00 for the remainder of the Fiscal Year.

***7. DENY MARQUEE REQUEST: FELIPE AND VITALINA CARDENAS (STAFF CONTACT: JENNIFER TAGALOG, 586-3206)**

BACKGROUND: Felipe and Vitalina Cardenas have requested to use the City of Milpitas Marquee to advertise the following family event:

Marquee Request (to be displayed 3/6)
Happy 15th
Birthday
Elizabeth Cardenas

Pursuant to Resolution No. 6310 (Facility Use Rules and Regulations), the marquee is to be used for City sponsored activities and City Council must approve all exceptions to the marquee policy.

Included in the Council's agenda packet are a copy of the letter requesting usage of the marquee and a copy of the policy. In the past, the Council has denied requests to use the marquee for personal parties or functions.

RECOMMENDATION: Based on previous Council direction regarding personal marquee requests, staff is recommending denying this request.

XVII. ORDINANCE

8. INTRODUCE ORDINANCE NO. 261, ADDING A NEW CHAPTER 18 TO TITLE V OF THE MILPITAS MUNICIPAL CODE TO AUTHORIZE ENFORCEMENT OF POSTED USE REGULATIONS AT DESIGNATED PUBLIC SITES AND FACILITIES (STAFF CONTACT: STEVE MATTAS, 586-3040)

BACKGROUND: Vice-Mayor Dixon has requested that the City Council consider adopting an ordinance allowing for enforcement of posted rules and regulations governing use of specified public facilities. In particular, the request is related to the use of recreational facilities and athletic complexes owned and operated by the Milpitas Unified School District. The proposed ordinance, included in the Council's agenda packet, would authorize owners and operators of such facilities to post signage outlining rules and regulations governing the use of the facilities, and provides that violation of posted rules and regulations is punishable as an infraction. The ordinance is broadly worded, however, to allow enforcement of such posted regulations in any public facility.

Staff has received reports from the Milpitas Unified School District Department of Maintenance, Operations and Transportation that many of the district's playing fields and artificial field turf and all-weather track surfaces have been damaged by certain recreational activities. The District has implemented rules and regulations prohibiting these activities (including golf, cricket and field hockey), but reports that certain groups continue to use the fields inappropriately and outside of permitted hours, resulting in damage to playing surfaces. The proposed ordinance authorizes the District (and similar operators of other City public facilities) to post signage outlining rules and regulations for facility use, and provides that violations of the duly posted regulations may be punishable as an infraction.

Cities are not preempted from regulating use of public facilities. Under the California Constitution, general law cities may make and enforce within their limits all local, police, sanitary and other ordinances and regulations not in conflict with general laws. Case law in the area generally provides that state laws with respect to trespass upon and misuse of school

grounds or similar public facilities do not preempt the field so as to preclude local regulation in the form of a local ordinance making such trespass or misuse an infraction or misdemeanor. Although numerous statutes regulate trespassory and inappropriate conduct at public facilities, case law reveals no legislative intent to foreclose local regulation, and suggests that a local ordinance may limit and regulate citizen use of school district playing fields based on "special local problems."

The proposed ordinance provides that operators of public facilities may post rules and regulations applicable to a given public facility in accordance with guidelines set up in the ordinance, and that violators of such regulations may be charged with an infraction pursuant to Milpitas Municipal Code Title I-1-4.09-1. The ordinance is broadly worded to subject all public facilities to such regulation by approved signage, and is drafted in a manner to allow the council in the future to permit regulation of additional areas.

RECOMMENDATION:

1. Waive reading beyond the title.
2. Introduce Ordinance No. 261 adding Chapter 18 to Title V of the Milpitas Municipal Code to authorize enforcement of posted use rules and regulations at designated public sites and facilities.

XVIII. RESOLUTION

***9. ADOPT RESOLUTION ACCEPTING GRANT AWARD, APPROVE BUDGET APPROPRIATION, REJECT BID PROTEST AND AWARD CONSTRUCTION CONTRACT: BERRYESSA CREEK TRAIL, REACH 3 (PROJECT NO. 5074) (STAFF CONTACT: GREG ARMENDARIZ, 586-3220)**

BACKGROUND: This project provides for trail improvements, including installation of trail surfacing from Hillview Drive to Jacklin Road/Abel Street and related trail amenities. It also includes installation of a pedestrian bridge over the creek in the vicinity of Gill Park, to provide access to the town center area. The Santa Clara Valley Water District will be implementing additional flood protection improvements on Berryessa Creek at some point in the future. These trail improvements have been coordinated with and designed to accommodate the future flood protection plans.

This project has received a federal grant of \$375,000 and more recently, the Santa Clara Valley Water District has awarded the City another \$90,000 grant for the construction costs of the pedestrian bridge. The federal grant is included in the approved Capital Improvement Project. The second grant from the Santa Clara Valley Water District was approved after the CIP approval process last year, and the amount is not currently included in the project budget. Staff recommends approval of a budget appropriation of \$90,000. Staff also recommends adoption of a resolution demonstrating acceptance of the grant award, in accordance with the grant program procedures.

On December 16, 2003, the City Council approved plans and specifications for Berryessa Creek Trail, Reach 3 and authorized advertising for bids. The project was advertised and sealed proposals were opened on January 28, 2004. A total of nine bids were received, ranging from \$534,700 to \$896,265. The Engineer's estimate was \$585,000. The apparent low bid was received from Bugler Construction of Fremont. A copy of the bid results is included in the Council's packet.

The federal grant involves specific requirements, including that a portion of the work be provided by "Disadvantaged Business Enterprise" (DBE) firms. Bidders are to provide information on the DBE requirements. The low bidders' DBE submittals were due on February 3, 2004.

On February 2, 2004, the City received a bid protest from the second lowest bidder, Grade Tech of Castro Valley. The bid protest cited concerns regarding the low bid firm's compliance with federal requirements of the contract. Staff met with Grade Tech to ensure that the basis for their protest was properly understood. Staff also met with the low bidder, Bugler Construction, to discuss the firm's DBE efforts and its compliance with federal and contract requirements. Staff and the City Attorney's office have reviewed the bidders' submittals, considered all the information, and found that the low bidder's proposal is responsive. Further, the bid protest was found to have no merit. Staff therefore recommends rejection of the bid protest.

Staff recommends that the City Council waive minor irregularities in the low bidder's documentation and award the construction contract to the lowest responsive bidder, Bugler Construction of Fremont, for the low bid of \$534,700. Sufficient funds are available in the project budget.

RECOMMENDATION:

1. Adopt a resolution demonstrating acceptance of the grant award from the Santa Clara Valley Water District.
2. Approve a budget appropriation of \$90,000.
3. Reject the bid protest received from the second low bidder.
4. Waive minor irregularities in the bidder's documentation and award the construction contract for Berryessa Creek Trail, Reach 3 (Project No. 5074) to the lowest responsive bidder, Bugler Construction, in the amount of \$534,700.

XIX. BIDS AND CONTRACTS

- *10. APPROVE AGREEMENT AMENDMENT: BKF ENGINEERS, 237/I-880 INTERCHANGE (PROJECT NO. 4170); DIXON/I-880 INTERCHANGE (PROJECT NO. 4047); TASMAN/I-880 RIGHT-OF-WAY (PROJECT NO. 4039) (STAFF CONTACT: DOUG DEVRIES 586-3313)**

BACKGROUND: BKF Engineers is currently providing utility relocation, right-of-way, and other coordination services for the 237/I-880 Interchange, Dixon/I-880 Interchange, and Tasman/I-880 Interchange projects. Additional coordination services are necessary, primarily for the completion of necessary right-of-way transfers to Caltrans and the Valley Transportation Authority.

Staff recommends that BKF Engineers perform these additional services at a not to exceed amount of \$20,000.00, which is considered reasonable for the scope of work. Compensation would be on an as-needed basis. There are sufficient funds in the various capital improvement project budgets to cover this additional expense.

RECOMMENDATION: Authorize the City Manager to execute the agreement amendment with BKF Engineers, in the amount of \$20,000.00, subject to approval as to form by the City Attorney.

- *11. AUTHORIZE THE PURCHASE OF MOBILE COMPUTING EQUIPMENT FOR THE FIRE DEPARTMENT. (STAFF CONTACT: BILL MARION, 586-2701)**

BACKGROUND: In February of 2002, Council approved the purchase of mobile computers for the Police Department. This equipment has been received and installed. The final phase of the Public Safety Technology Project includes the installation of mobile computers in 18 vehicles for the Fire Department. The hardware specified for the mobile computing project utilizes touch screen technology and a standard computer platform that will allow Fire vehicles to receive mobile dispatch information and fire preplan information.

Staff recommends that the equipment be purchased from the same source as used for the Police Department project. This will provide a consistent mobile hardware platform in all Public Safety vehicles and facilitate on-going support and maintenance. Given the lead times for hardware delivery and installation, staff is recommending order placement at this time in order to complete installation prior to implementation of the new Computer Aided Dispatch System (CAD) in the 4th quarter of 2004. Funding for this purchase has been programmed since FY 01/02 in CIP No. 8109, and a delay in acquisition will impact the implementation of the new Computer Aided Dispatch System

RECOMMENDATION: Authorize the City Manager to execute a purchase order in an amount not to exceed \$149,731.52 for Mobile Computing Hardware and Equipment from Data911 Systems. .

***12. AUTHORIZE PURCHASE OF REPLACEMENT PUBLIC SAFETY BASE STATION RADIO EQUIPMENT (STAFF CONTACT: LOU ZENZEN, 586-3161)**

BACKGROUND: Staff issued a Request for Quotation for replacing a portion of the Public Safety two-way communication base radio system and ancillary equipment. These transmitters, repeaters and channel monitors are replacing existing infrastructure equipment that is between 10 and 16 years old and have been included in this fiscal year's capital outlay budget for replacement. Bid packets were sent to the seven bay area suppliers of Motorola equipment and four responded. The following is the recap of the four quotes received including tax and freight:

<u>Bidder</u>	<u>Amount</u>
Day Wireless Systems	\$68,966.40
Bear Communications	\$71,393.39
Peninsula Communications	\$72,063.11
Motorola, Inc.	\$77,436.83

There are sufficient funds in the Equipment Replacement Fund for the purchase of the radio systems and accessories.

RECOMMENDATION: Award the bid for the purchase of the two-way base radio equipment to the lowest bidder, Day Wireless Systems, in the amount of \$68,966.40 including tax and shipping.

***13. AWARD BID FOR PURCHASE OF EIGHT FILE SERVERS (PROJECT NO. 8109) (STAFF CONTACT: LOU ZENZEN, 586-3161)**

BACKGROUND: Staff requested bids from 21 dealers on Purchasing's bidders list for 8 file servers for the new public safety Computer Aided Dispatch (CAD) system. These servers are required to provide interfaces to State, Federal and Local law enforcement databases as well as communications to mobile computers in Police and Fire vehicles. In order to meet the CAD implementation schedule, purchase of this equipment is needed at this time. Eleven dealers responded with bids ranging from \$42,295.44 to \$59,934.12. The following is the recap of bids received by the five lowest bidders which includes freight and tax:

<u>Bidder</u>	<u>Amount</u>
Surah, Inc.	\$42,295.44
ICON Microsystems	\$44,708.33
NorthBay Networks	\$47,805.21
S H I	\$48,411.57
CDW Government	\$48,551.21

There are sufficient funds in the Desktop Technology CIP (Project No. 8109) budget for this purchase.

RECOMMENDATION: Award the bid for the file server to Surah, Inc. as the lowest bidder in the amount of \$42,295.44 and authorize the purchase.

***14. AWARD CONSTRUCTION CONTRACT: PIEDMONT ROAD BIKE LANE AND SIDEWALK IMPROVEMENTS AT ST. JOHN'S CEMETERY, PROJECT NO. 4214 (STAFF CONTACT: STEVE ERICKSON 586-3317)**

BACKGROUND: This project provides new roadway improvements including: slurry seal, curb & gutter, sidewalk, drainage inlets, street lighting, landscaping along the west side of Piedmont Road south of Aguilar Court. The project was advertised and sealed proposals were opened on Wednesday, February 4, 2004. The proposals ranged from \$308,838.20 to \$526,366.00. The Engineer's estimate for the work was \$344,000. The low bidder was Grade Tech, Inc..

RECOMMENDATION: Award the contract to Grade Tech, Inc. in the amount of \$308,838.20, subject to approval by the City Attorney.

XX. CLAIMS AND DEMANDS

***15. APPROVE PAYMENT REQUESTS: MISCELLANEOUS VENDORS / CONTRACTORS (STAFF CONTACT: LOU ZENZEN, 586-3161)**

BACKGROUND: In accordance with direction given by City Council at its August 15, 1995 meeting, Purchasing has prepared the following list of purchasing requests over \$5,000.00 for approval:

1. \$111,797.00 to Santa Clara County Crime Laboratory for the City's share of annual costs of submitting physical evidence for analysis to the Major Case Unit for the Police Department. The City's share is 7.01% of the Crime Laboratory's annual operating costs. (Funds are available from the Police Department operating budget for these required services.)
2. \$13,000.00 to Day Wireless Systems for the removal of two-way radio, emergency lights, partitions and other equipment from out of service patrol cars and reinstalling in five newly purchased patrol cars for the Fleet Maintenance Division. (Funds are available from the Public Works Department operating budget for this service.)

RECOMMENDATION: Approve the purchase requests

XXI. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, MARCH 2, 2004, AT 7:00 P.M.**